

## Design Memorandum No. 01-2006

TO: Engineering Offices and Divisions  
Districts  
Consulting Engineers

FROM: Mark S. Gaydos, P.E. - Design Engineer  
/s/

DATE: January 24, 2006

Design Manual Reference:

Section II-05

\_\_\_\_ Revision

✓ Supplemental

SUBJECT: PROGRAMMATIC ENVIRONMENTAL CHECK DOCUMENT FOR SEAL  
COATS AND PROGRAMMATIC PREVENTIVE MAINTENANCE  
PROJECTS

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### Introduction

The memorandum provides an environmental template that will be used on all Seal Coats and Programmatic Preventive Maintenance Projects.

### Implementation

The use of this guidance is to be implemented immediately.

### Guidance

As part of Project Development Streamlining efforts, the NDDOT has entered into a Programmatic Categorical Exclusion agreement with FHWA for seal coats and some preventive maintenance projects.

A “Programmatic Environmental Check Document” has been developed and will be used on seal coat projects and preventive maintenance projects that fall within the predefined scope of works, that can be found on page 1 of the “Programmatic Environmental Check Document”. This new check document will replace Project Concept Reports for these types of project. If there is an environmental impact that is found during the process of completing the “Programmatic Environmental Check Document”, the designer will need to develop a Project Concept Report and follow the proper procedures for a Project Concept Report.

The “Programmatic Environmental Check Document” will be filled out by the designer and certifies that there are no environmental impacts for a particular project. The completed “Programmatic Environmental Check Document” and supporting information will be sent into Bridge – Consultant Agreement Section(CAS). CAS will work with Design Division - Environmental Section to fill out the CATEX form. Design Divisions - Environmental Section will send the completed CATEX form to FHWA.

All preventive maintenance project will still need to have a life cycle cost analysis done and will be attached to the completed "Programmatic Environmental Check Document".

**Questions**

Any questions regarding the content or implementation of the memorandum should be referred to Ron Henke, Design Division, 701-328-4445.

**Approved**

\_\_\_\_\_/s/\_\_\_\_\_  
Francis G. Ziegler, P.E. - Director, Office of Project Development

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1/26/06  
Date

# PROGRAMMATIC CATEGORICAL EXCLUSION

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## PROGRAMMATIC CATEGORICAL EXCLUSION APPROVAL AGREEMENT BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

The Federal Highway Administration, North Dakota Division, hereinafter FHWA, and the North Dakota Department of Transportation, hereinafter NDDOT, have developed this programmatic agreement to describe the policy and procedures for environmental processing of certain "Categorical Exclusion" (CE) actions as defined in section 23 CFR 771.117 which are normally found to have no significant social, economic, and environmental effects. NDDOT will act in place of the FHWA in determining that federal environmental requirements are met on the types of categorical exclusion actions identified in this agreement.

The FHWA hereby concurs in advance, on a programmatic basis, with NDDOT's determination that those types of actions satisfying conditions and criteria in Attachment "B" will not result in significant environmental impacts, either individually or cumulatively, and are therefore categorical exclusions and satisfy the requirements of Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations". These actions will not require individual documentation submitted to the FHWA. Examples of these actions are in 23 CFR Part 771.117(c) and Attachment "A".

**PROCESS** - Where NDDOT determines the action may be processed as described in this Agreement, the determination shall be appropriately documented. "Documentation" as referred to in this agreement is the appropriate engineering and environmental documentation required for a federally funded highway project.

NDDOT shall notify the FHWA that CE concurrence for the project was programmatically approved in accordance with this Agreement at the time authorization to proceed using Federal funds is requested.

Documentation will be retained and accessible to authorized representatives of the FHWA and NDDOT for a minimum of 3 years following submittal of the final project voucher. Electronic files meeting Federal and State requirements may eventually replace "hard copy".

**AGREEMENT REVISIONS** - This Agreement may be modified by mutual consent at any time. Attachments may be revised by mutual consent of the Division Administrator of the FHWA and the Director of the North Dakota Department of Transportation or designate.

**AGREEMENT TERMINATION** - This Agreement may be terminated in writing by FHWA or NDDOT at any time.

**APPROVAL OF AGREEMENT**

The undersigned have reviewed this Agreement and determined that it complies with the laws, regulations, and policies applicable to the FHWA and NDDOT.

Accordingly, it is hereby approved and becomes effective on the last date noted below.

1/09/06  
Date

/s/  
Grant Levi, P.E.  
Deputy Director for Engineering  
North Dakota Department of Transportation

1/12/06  
Date

/s/  
Allen R. Radliff  
Division Administrator  
Federal Highway Administration

## ATTACHMENT "A"

In addition to the actions covered under 23 CFR 771.117(c), the following actions, road top treatments only, that meet the criteria and conditions in Attachment "B" shall be processed by NDDOT under this programmatic categorical exclusion approval agreement:

**1) Seal Coat/Slurry Seals:** The purpose of a seal coat project is to prevent the newly placed bituminous surfacing from oxidizing and to provide a wearing surface for traffic. Seal coat projects will only consist of work activities to place oil, chips, on the driving lanes, shoulders and sloughs. Replacement of pavement markings will also be done.

**2) Thin Lift Overlay/Patching:** The purpose is to prolong the life of the existing surfacing and to correct minor section differentials. Thin lift overlay projects can consist of placing bituminous surfacing on the mainline, shoulder prep and spraying for weeds prior to applying one of the shoulder treatments shown in the NDDOT design manual, paving of intersections, section lines, private drives, and field approaches. Replacement of pavement markings will also be done.

**3) Preventive Maintenance Concrete Pavement Repair (CPR):** The purpose is to repair the concrete panels that are severely deteriorating. Preventive Maintenance CPR projects will consist of replacing only the deteriorated concrete panels in the driving lane and passing lane. Replacement of disturbed pavement markings will also be done.

**4) Microsurfacing/Macrosurfacing:** The purpose is to prolong the life of the existing surfacing and to fill ruts. Microsurfacing/Macrosurfacing projects can consist of placing bituminous surfacing on the mainline, may include seal coat shoulders, and the placement of pavement markings. No work will be performed on any driveways, section line and driveway approaches, and any intersection.

**5) Grinding:** The purpose is to reestablish a smoother riding pavement surface. Grinding projects can consist of grinding the driving lane of concrete pavements and enough of the shoulder and passing lane to tie in. Replacement of pavement markings will also be done.

## **ATTACHMENT "B"**

SECTION 4(f) or 6(f): The action does not use Section 4(f) property; **OR** the Negative Declaration/4(f) statement by the FHWA dated May 23, 1977 for bikeway/walkways applies to the action.

HISTORIC / ARCHAEOLOGICAL: The projects listed above, have no potential to effect historic properties as established in 36 CFR 800.3.a.1. Therefore, no further consultation is required with the North Dakota State Historical Society. If additional material (aggregate or borrow) is required, the appropriate clearances must be obtained.

THREATENED OR ENDANGERED SPECIES: The action does not affect species or critical habitat protected by the Endangered Species Act

RIGHT OF WAY: The action requires no new right of way or temporary easement, minor access change, no relocations, and has low risk of hazardous materials involvement.

FARMLAND: The action will not involve the acquisition of farmland

SECTION 404: The action does not involve placement of fill into Waters of the United States (33 CFR 328)

FLOODPLAINS: The action does not encroach into a floodplain

WETLANDS: The action does not impact wetlands

NOISE: The action is not a type I action in accordance with Section 772 of the Federal Aid Policy Guide and will not significantly impact noise levels.

AIR: The action will not significantly impact air quality.

WATER QUALITY: If the project will disturb greater than one acre at an individual site a North Dakota Pollution Discharge Elimination System Construction Permit must be obtained.

PUBLIC CONTROVERSY: The action is not controversial.

# PROGRAMMATIC ENVIRONMENTAL CHECK DOCUMENT

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Project #: \_\_\_\_\_

Date: \_\_\_\_\_

Location: \_\_\_\_\_

The work for this project is a road top treatment limited to:

- \_\_\_\_\_ **1) Seal Coat/Slurry Seals:** The purpose of a seal coat project is to prevent the newly placed bituminous surfacing from oxidizing and to provide a wearing surface for traffic. Seal coat projects will only consist of work activities to place oil, chips, on the driving lanes, shoulders and sloughs. Replacement of pavement markings will also be done.
- \_\_\_\_\_ **2) Thin Lift Overlay/Patching:** The purpose is to prolong the life of the existing surfacing and to correct minor section differentials. Thin lift overlay projects can consist of placing bituminous surfacing on the mainline, shoulder prep and spraying for weeds prior to applying one of the shoulder treatments shown in the NDDOT design manual, paving of intersections, section lines, private drives, and field approaches. Replacement of pavement markings will also be done.
- \_\_\_\_\_ **3) Preventive Maintenance Concrete Pavement Repair (CPR):** The purpose is to repair the concrete panels that are severely deteriorating. Preventive Maintenance CPR projects will consist of replacing only the deteriorated concrete panels in the driving lane and passing lane. Replacement of disturbed pavement markings will also be done.
- \_\_\_\_\_ **4) Microsurfacing/Macrosurfacing:** The purpose is to prolong the life of the existing surfacing and to fill ruts. Microsurfacing/Macrosurfacing projects can consist of placing bituminous surfacing on the mainline, may include seal coat shoulders, and the placement of pavement markings. No work will be performed on any driveways, section line and driveway approaches, and any intersection.
- \_\_\_\_\_ **5) Grinding:** The purpose is to reestablish a smoother riding pavement surface. Grinding projects can consist of grinding the driving lane of concrete pavements and enough of the shoulder and passing lane to tie in. Replacement of pavement markings will also be done.

In order for this project to be considered programmatic, all answers must be **no** to these environmental questions:

- ☐ Yes   ☐ No   SECTION 4(F)/6(F): Are there any impacts to Section 4(f) or 6(f) property ("public owned land of a public park, recreation area, or wildlife and waterfowl refuge and historic sites) or a negative declaration to bikeway/walkways?
- ☐ Yes   ☐ No   HISTORIC / ARCHAEOLOGICAL: Are there any impacts to HISTORIC / ARCHAEOLOGICAL properties? If additional material (aggregate or borrow) is required, the appropriate clearances must be obtained.
- ☐ Yes   ☐ No   THREATENED OR ENDANGERED SPECIES: Does the action affect species or critical habitat protected by the Endangered Species Act?
- ☐ Yes   ☐ No   RIGHT OF WAY: Is there any action required for new right of way or temporary easement, minor access change, relocations, and does it have any low risk of hazardous materials involvement?
- ☐ Yes   ☐ No   FARMLAND: Does this action involve the acquisition of farmland?
- ☐ Yes   ☐ No   SECTION 404: Does this action involve placement of fill into Waters of the United States (33 CFR 328)?
- ☐ Yes   ☐ No   FLOODPLAINS: Based on the solicitation of view letter sent to the State Water Commission are there any impacts in this area? *(SOV Only required if the original roadway elevation will be altered)*
- ☐ Yes   ☐ No   WETLANDS: Does the action impact wetlands?
- ☐ Yes   ☐ No   NOISE: Is this action a Type I action in accordance with Section 772 of the Federal Aid Policy Guide and does it significantly impact noise levels? (Increases the carrying capacity of the roadway by allowing more volume).
- ☐ Yes   ☐ No   AIR: Will the action significantly impact air quality?
- ☐ Yes   ☐ No   WATER QUALITY: Does the project disturb greater than one acre at an individual site and if it does a North Dakota Pollution Discharge Elimination System Construction Permit must be obtained.
- ☐ Yes   ☐ No   PUBLIC CONTROVERSY: Is this action controversial?

(signature of person filling out documentation)  
 (Print Name of person filling out documentation)

\_\_\_\_\_  
Date